

## Message Text

PAGE 01 STATE 258711  
ORIGIN OES-07

INFO OCT-01 ARA-14 ISO-00 /022 R

66011  
DRAFTED BY: OES/OFA/FA: BSHALLMAN: SMD  
APPROVED BY: OES/OFA/FA/ BSHALLMAN  
-----002946 291538Z /15

P 290812Z OCT 77  
FM SECSTATE WASHDC  
TO AMEMBASSY QUITO PRIORITY  
AMEMBASSY LIMA PRIORITY  
AMEMBASSY SANTIAGO PRIORITY

UNCLAS STATE 258711

FOLLOWING REPEAT MEXICO 15575 ACTION SECSTATE OCT 16.

QAOTE UNCLAS MEXICO 15575

FOR OES NFS NOAA COMM

E.O. 11652 NA  
TAGS EFIS,MX  
SUBJECT NEGOTIATION OF TUNA TREATY SAN JOSE, COSTA RICA-  
WORKING DOCUMENT

SUBJECT WORKING DOCUMENT PRESENTED TO EMBASSY BY GOM FONSEC  
SEPT 15, FOLLOWS -

1. THE PREAMBLE WOULD INVOKE THE EMERGING LAW OF THE SEA  
AND THE PROVISIONS OF THE SINGLE UNIFIED NEGOTIATING TEXT;  
REFERENCE WOULD BE MADE TO THE DUTY OF STATES COMPRISING A  
SPECIFIC REGION TO COOPERATE INTERNATIONALLY, THROUGH  
REGIONAL ORGANIZATIONS, FOR THE CONSERVATION OF HIGHLY MI-  
GRATORY SPECIES AND IN ORDER TO ENSURE THEIR OPTIMUM  
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UTILIZATION IN THE ENTIRE REGION, IN ACCORDANCE WITH PARA-  
GRAPH 1 OF ARTICLE 64 OF THE SINGLE UNIFIED NEGOTIATING  
TEXT; ACCOUNT WOULD BE TAKEN OF THE FACT THAT ALMOST ALL  
COASTAL STATES BORDERING THE EASTERN PACIFIC HAVE ESTAB-  
LISHED ECONOMIC ZONES OR OTHER ZONES OF NATIONAL JURIS-  
DICTION UP TO 200 MILES FROM THEIR COAST LINES; CONSIDERA-  
TION WOULD BE GIVEN TO THE FACT THAT THE REGIME ESTABLISHED  
BY THE IATTC CONVENTION IS INCOMPATIBLE WITH THE SOVEREIGN  
RIGHTS THAT THE COASTAL STATE EXERCISES OVER ALL  
THE LIVING RESOURCES UP TO 200 MILES; THAT IT IS THEREFORE  
INDISPENSABLE TO ESTABLISH A CONSERVATION, MANAGEMENT AND

UTILIZATION REGIME FOR THESE RESOURCES WHICH TAKES INTO ACCOUNT THE COASTAL STATES SOVEREIGN RIGHTS AND AT THE SAME TIME, THE HIGHLY MIGRATORY NATURE OF THE TUNA IN THE REGION.

2. AT THE BEGINNING OF THE OPERATIVE PART OF THE TREATY, A PROVISION WOULD ESTABLISH A REGIONAL ORGANIZATION FOR THE INTERNATIONAL CONSERVATION AND MANAGEMENT REGIME GOVERNING TUNA IN THE EASTERN PACIFIC.

3. IN THE MEMBERSHIP PROVISION (PERHAPS IN A SEPARATE CHAPTER) IT WOULD BE INDICATED THAT THOSE STATES PARTICIPATING AS PARTIES IN THE PLENIPOTENTIARY CONFERENCE WHICH SIGN AND RATIFY THE TREATY WOULD BE MEMBERS OF THE ORGANIZATION. THE DOOR WOULD BE LEFT OPEN FOR OTHER STATES TO JOIN THE ORGANIZATION.

4. THE AREA WITHIN WHICH THE TREATY WOULD APPLY WOULD BE DEFINED AND QUALIFIED AS THE "AREA OF TREATY APPLICATION" (INSTEAD OF "REGULATORY AREA"). EXCEPT FOR ANY VALID REASON TO THE CONTRARY, THIS AREA WOULD BE THE SAME AS THE CURRENT CYRA, LEAVING OPEN THE POSSIBILITY (THROUGH A CONFERENCE DECISION IN THE FUTURE) FOR THE AREA TO BE EXTENDED TO COVER LARGER ZONES. THE AREA OF APPLICATION OF THE TREATY UNCLASSIFIED

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WOULD BEGIN 12 MILES FROM THE COAST (SEE ALSO PARAGRAPH 23).

5. THERE WOULD BE A CHAPTER ON THE MAIN ORGANS OF THE ORGANIZATION: A PLENARY CONFERENCE OR ASSEMBLY AND A SECRETARIAT. THE CONFERENCE OR ASSEMBLY MAY ESTABLISH SUCH SUBSIDIARY ORGANS AS IT MAY DEEM NECESSARY.

6. ALL PARTIES WOULD BE REPRESENTED IN THE PLENARY BODY, WHICH WOULD BE THE GUIDING ORGAN OF THE ORGANIZATION. AS SUCH, IT WOULD FORMULATE GENERAL POLICY, OVERSEE THE FULFILLMENT OF THE NATURE, PURPOSES AND PRINCIPLES AND WOULD ADOPT RECOMMENDATIONS AND DECISIONS DIRECTED TO MEMBERS AND THE SECRETARIAT. EXCEPT FOR ANY PROVISION TO THE CONTRARY IN THE TREATY, THE PLENARY'S RESOLUTIONS WOULD BE BINDING UPON MEMBERS AND THE SECRETARIAT. DECISIONS WOULD BE TAKEN, IN PRINCIPLE, BY A MAJORITY OF TWO THIRDS OR THREE-QUARTERS, UNLESS OTHERWISE PROVIDED FOR BY THE TREATY. IN CERTAIN SPECIFIC PROVISIONS IT MIGHT BE DESIRABLE TO SPELL OUT THOSE MEASURES THE IMPLEMENTATION OF WHICH WOULD REQUIRE THE CONSENT OF THE STATE AFFECTED BY SUCH MEASURES.

7. SECRETARIAT: INTERNATIONALLY RECRUITED, HIGH LEVEL, IMPARTIAL, GEOGRAPHIC DISTRIBUTION IN RECRUITMENT. IT WOULD NOT BE SUBJECT TO DIRECTIVES OR ORDERS FROM MEMBER STATES. IT WOULD BE HEADED BY A SECRETARY GENERAL. IT WOULD ENJOY APPROPRIATE PRIVILEGES AND IMMUNITIES. IT WOULD HAVE A RESEARCH/SCIENTIFIC SECTION AND AN ADMINISTRATIVE SECTION.

8. THE RESEARCH SECTION WOULD UNDERTAKE RESEARCH, DATA COLLECTION, STATISTICAL WORK, EXPERIMENTAL FISHING, PUBLICATION AND DISTRIBUTION OF DATA AND STUDIES, AS WELL AS MAKING RECOMMENDATIONS TO MEMBERS. SPECIFICALLY, IT WOULD MAINTAIN ACCURATE RECORDS OF FISHING ACTIVITIES AS REGARDS AMOUNTS, AREAS OF CAPTURE, ETC. IN ORDER TO DETERMINE THE TOTAL ALLOWABLE CATCH AND OTHER FUNCTIONS FORESEEN IN THE TREATY.

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9. THE ADMINISTRATIVE SECTION WOULD BE CHARGED WITH BUDGETARY AND PERSONNEL QUESTIONS, COOPERATION WITH OTHER ORGANIZATIONS, ETC., AND IN PARTICULAR WITH ISSUING THE INTERNATIONAL FISHING PERMITS PROVIDED FOR IN THE TREATY,

AS WELL AS VERIFYING AND COMPUTING ACTUAL HARVESTS UNLOADED.

10. A SPECIAL CHAPTER WOULD CONTAIN THE NATURE AND OBJECTIVES OF THE ORGANIZATION WHICH WOULD INCLUDE THE FOLLOWING:

11. ONLY THOSE SPECIES OF TUNA ENUMERATED IN AN ANNEX WOULD BE COVERED BY THE TREATY. THE CONFERENCE OR ASSEMBLY WOULD BE ABLE, IN THE FUTURE, TO DECIDE, ON THE BASIS OF THE SECRETARIAT/S SCIENTIFIC STUDIES, WHICH TUNA STOCKS SHOULD BE COVERED BY THE TREATY. THIS QUESTION WOULD NATURALLY AFFECT THE TREATY'S AREA OF APPLICATION. PROVISION COULD ALSO BE MADE FOR THE CONFERENCE OR ASSEMBLY TO DECIDE IN THE FUTURE WHICH ADDITIONAL HIGHLY MIGRATORY SPECIES COULD BE INCORPORATED UNDER THE TREATY. THIS DECISION WOULD REQUIRE UNANIMITY. THE LEGAL CONSEQUENCE OF SOME HIGHLY MIGRATORY SPECIES (OTHER THAN TUNA) NOT BEING COVERED BY THE TREATY WOULD BE THAT THE COASTAL STATE WOULD REGULATE THEIR EXPLOITATION IN ITS ECONOMIC ZONE.

12. PROVISION WOULD BE MADE FOR THE SPECIES OF TUNA WHICH ARE FOUND IN THE TREATY'S AREA OF APPLICATION TO BE SUBJECT TO ONE OF THE FOLLOWING THREE REGIMES:

A) THOSE SPECIES WHICH ARE THE OBJECT OF SPECIFIC CONSERVATION MEASURES, ADOPTED BY THE ORGANIZATION, THROUGH THE DETERMINATION OF AN ANNUAL OVERALL CATCH

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LIMIT AND THE EXPLOITATION OF WHICH WOULD BE SUBJECT TO A QUOTA SYSTEM AMONG THE PARTIES.

B) THOSE SPECIES WHICH ARE NOT THE OBJECT OF SPECIFIC CONSERVATION MEASURES, BUT THE EXPLOITATION OF WHICH IS SUBJECT TO THE REGIME OF THE TREATY. (PARAGRAPHS

31 AND 32). S

C) THOSE SPECIES THE EXPLOITATION OF WHICH IS NOT THE OBJECT OF ANY INTERNATIONAL MEASURES, AS A RESULT OF WHICH THEIR EXPLOITATION IS REGULATED SOLELY BY THE COASTAL STATES.

THE SPECIES INCLUDED IN A) AND B) WOULD BE CALLED "REGULATED SPECIES". THE ANNEX WOULD INDICATE THAT YELLOW-FIN TUNA IS THE ONLY SPECIES INCLUDED IN A) AND SKIPJACK THE ONLY ONE IN B). THE CONFERENCE MAY DECIDE WHETHER OTHER SPECIES OF TUNA SHOULD BE INCLUDED IN ONE OR THE OTHER CATEGORY.

13. THE OBJECTIVE OF THE TREATY WOULD BE DEFINED AS: THE STUDY OF THE DIFFERENT SPECIES WITHIN THE AREA OF APPLICATION; THE CONSERVATION OF THE SPECIES IN CATEGORY A) OF THE CORRESPONDING ARTICLE UNDER PARAGRAPH 12, IN ORDER TO MAINTAIN THEIR OPTIMUM SUSTAINABLE YIELD; THE RATIONAL EXPLOITATION OF THE SPECIES IN ORDER TO OBTAIN THE OPTIMUM UTILIZATION OF THE RESOURCE; AND THE FAIR DISTRIBUTION OF BENEFITS AMONG THE PARTIES THROUGH THE ALLOCATION OF GUARANTEED QUOTAS FOR COASTAL STATES BASED ON THE CRITERION OF CONCENTRATION OF THE RESOURCE WITHIN 200 MILES OF THEIR COASTS.

14. ON THE BASIS OF THE BEST SCIENTIFIC EVIDENCE AVAILABLE, THE SECRETARY GENERAL WOULD PROPOSE TO THE CONFERENCE OR ASSEMBLY THOSE CONSERVATION MEASURES AS ARE DEEMED ADEQUATE IN ORDER TO MAINTAIN THE OPTIMUM SUSTAINABLE YIELD OF THE CORRESPONDING SPECIES. THE CON-

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CONFERENCE OR ASSEMBLY WOULD THEN ADOPT APPROPRIATE MEASURES. THE MEASURES TAKEN BY THE ORGANIZATION SHALL TEND TO THE ESTABLISHMENT OF A UNIFORM CONSERVATION REGIME THROUGHOUT THE TREATY'S AREA OF APPLICATION.

15. THE PRINCIPLE OF SATURATION OF THE FISHERY: THE ORGANIZATION MAY DETERMINE, ON THE BASIS OF THE BEST SCIENTIFIC EVIDENCE AVAILABLE, THAT A REGULATED SPECIES IS BEING EXPLOITED AT OR NEAR THE LEVEL OF ITS OPTIMUM SUSTAINABLE YIELD, AS A RESULT OF WHICH ANY INCREASED FISHING EFFORT, WHETHER BY AN INCREASE IN THE NUMBER OF VESSELS IN THE FISHERY OR BY THE PARTICIPATION IN THE FISHERY OF ADDITIONAL STATES, WOULD ENDANGER THE CONSERVATION OF SUCH SPECIES. IN SUCH CASES THE ORGANIZATION SHALL DECLARE THE FISHERY CLOSED, SHALL REQUEST NON-MEMBER STATES TO REFRAIN FROM EXPLOITATION AND SHALL ADOPT THE APPROPRIATE MEASURES FOR MEMBER STATES.

16. PARTIES SHALL ONLY AUTHORIZE FISHING OF REGULATED SPECIES IN THEIR ECONOMIC ZONES OR ZONES OF JURISDICTION

BY MEMBERS OF THE ORGANIZATION UNDER THE CONDITIONS  
ESTABLISHED BY THE ORGANIZATION.

17. MEMBERS WOULD UNDERTAKE TO PROHIBIT NON-MEMBERS FROM  
UNLOADING IN THEIR TERRITORY REGULATED SPECIES CAUGHT IN  
THE TREATY'S AREA OF APPLICATION.

18. IN ADDITION, TO GIVE EFFECT TO THE PRINCIPLE OF  
FISHERY SATURATION, THE ORGANIZATION'S MEMBERS WOULD  
UNDERTAKE TO PROHIBIT THE IMPORTATION TO THEIR TERRITORY  
OF REGULATED SPECIES EXPORTED BY MEMBERS OR NON-MEMBER  
STATES THAT DO NOT ABIDE BY THE CONSERVATION MEASURES  
TAKEN BY THE ORGANIZATION OR THAT DO NOT COMPLY WITH THE  
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QUOTA SYSTEM ESTABLISHED BY IT.

19. MEMBERS SHALL NOT UNILATERALLY ADOPT CONSERVATION  
MEASURES INCOMPATIBLE WITH THOSE ESTABLISHED BY THE  
ORGANIZATION, BOTH AS REGARDS REGULATED SPECIES AS WELL  
AS THOSE SPECIES CLOSELY ASSOCIATED WITH REGULATED  
ONES AND CAUGHT INCIDENTALLY WITH THEM.

20. A CHAPTER WOULD FOLLOW COVERING THE ACTUAL CONDUCT  
OF FISHING ACTIVITIES IN THE AREA OF APPLICATION AND THE  
ALLOCATION OF QUOTAS.

21. THE SECRETARIAT SHALL ANNUALLY ESTIMATE THE OPTIMUM  
SUSTAINABLE YIELD OF THE SPECIES REFERRED TO IN SUBPARA-  
GRAPH A) OF PARAGRAPH 12 FOR THE PURPOSES OF EXPLOITATION  
DURING THE FOLLOWING YEAR AND SHALL SUBMIT IT TO THE  
ANNUAL MEETING OF THE CONFERENCE OR ASSEMBLY WHICH IN  
TURN WILL ADOPT THE RESPECTIVE DECISION.

22. ALL MEMBERS, WHETHER COASTAL STATES OR NOT, MAY FISH  
WITHIN THE ENTIRE AREA OF APPLICATION OF THE TREATY,  
BEGINNING 12 MILES FROM THE COAST, SUBJECT TO THE TERMS  
AND CONDITIONS ESTABLISHED IN THE TREATY AND  
IN THE AMOUNTS DETERMINED UNDER THE CRITERIA THEREIN SET  
FORTH AND IN CONFORMITY WITH THE DECISIONS ADOPTED BY  
THE CONFERENCE OR ASSEMBLY, PARTICULARLY AS REGARDS THE  
QUOTAS ALLOCATED TO COASTAL STATES.

23. HARVESTS WITHIN 12 MILES OF THE COAST SHALL BE  
COMPUTED IN THE CALCULATIONS FOR DETERMINING THE TOTAL  
HARVEST AND THE FUTURE OPTIMUM CATCH.

24. ONCE THE ANNUAL TOTAL ALLOWABLE CATCH HAS BEEN  
CAUGHT, FISHING ACTIVITIES IN THE AREA OF APPLICATION  
SHALL CEASE. THE CONFERENCE OR ASSEMBLY WILL AUTHORIZE  
THE SECRETARY GENERAL TO MAKE THE CORRESPONDING DECLARA-  
TION WHICH SHALL BE OBLIGATORY.  
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25. EACH COASTAL STATE PARTY WILL ENJOY A GUARANTEED ANNUAL QUOTA OF HARVEST FOR EACH OF THE SPECIES INCLUDED IN SUBPARAGRAPH A) OF PARAGRAPH 12 BASED ON THE CONCENTRATION OF THE RESOURCE IN ITS ECONOMIC ZONE OR ZONE OF JURISDICTION, UP TO A DISTANCE OF 200 MILES. THIS QUOTA WILL BE EQUIVALENT TO THE AVERAGE HARVEST CAPTURED BY ALL THE TUNA FLEETS WITHIN THE COASTAL STATES' ZONE OVER THE PRECEDING 5 YEARS. EVERY X NUMBER OF YEARS A NEW CALCULATION OF RESOURCE CONCENTRATION WILL BE MADE ON THE BASIS OF HARVESTS OVER THE LAST X YEARS. ON THIS BASIS, THE SECRETARIAT WILL ANNUALLY ESTIMATE THE QUOTAS TO BE ALLOCATED TO MEMBER COASTAL STATES AND SHALL SUBMIT THEM TO THE CONFERENCE OR ASSEMBLY WHICH SHALL MAKE THE CORRESPONDING DECISION BY A MAJORITY.

26. IF THE COASTAL STATE HAS A HARVESTING CAPACITY BELOW THAT OF ITS ALLOCATION, THE DIFFERENCE MAY BE HARVESTED BY OTHER STATES PARTY. IN EXCHANGE FOR THIS HARVEST BY OTHER STATES, THE COASTAL STATE WILL RECEIVE MONETARY COMPENSATION FIXED BY THE RESPECTIVE PROVISIONS (SEE PARAGRAPHS 31 AND 32).

27. THE HARVESTING CAPACITY OF EACH COASTAL STATE FOR THE FOLLOWING YEAR WILL BE ESTIMATED IN ADVANCE BY THE SECRETARIAT AND WILL BE SUBJECT TO PERIODIC ADJUSTMENTS IN ORDER TO DETERMINE THE SURPLUS AVAILABLE TO OTHER STATES.

28. IF THE COASTAL STATE HAS A HARVESTING CAPACITY GREATER THAN ITS ALLOCATION, IT SHALL NOT BE PREVENTED FROM CATCHING MORE, IN FREE COMPETITION, AS LONG AS THE FISHERY IS NOT CLOSED DUE TO THE TOTAL ALLOWABLE ANNUAL

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CATCH HAVING BEEN REALIZED.

29. THE SALE OR TRANSFER OF ALLOCATED QUOTAS BY COASTAL STATES, WHETHER TO OTHER MEMBERS OR NON-MEMBERS, SHALL BE PROHIBITED.

30. AT ITS ANNUAL MEETING, ON THE BASIS OF SECRETARIAT PROPOSALS THE CONFERENCE OR ASSEMBLY SHALL DETERMINE:

A) THE TOTAL ALLOWABLE CATCH FOR THE SPECIES REFERRED TO IN SUBPARAGRAPH A) OF PARAGRAPH 12;

B) THE GUARANTEED ALLOCATIONS FOR EACH COASTAL STATE;

FISHERY, FIXED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH 31.

31. VESSELS WHICH HAVE A VALID INTERNATIONAL FISHING PERMIT ISSUED BY THE ORGANIZATION SHALL PAY PARTICIPANT FEES PER TON CAUGHT ON THE BASIS OF 5 PER CENT OF THE DOCKSIDE VALUE. IN ORDER TO MEET THE ORGANIZATION'S EXPENSES, AN ADVANCE OF (E.G. 25 PER CENT), WILL BE REQUIRED OF THE ANNUAL PROBABLE HARVEST.

32. THE ORGANIZATION SHALL DISTRIBUTE THE INCOME DERIVING FROM PARTICIPANT FEES AS FOLLOWS:

A) ADMINISTRATIVE EXPENSES (20 PER CENT);

B) A PORTION OF THE REMAINDER, PROPORTIONAL TO THE HARVEST CAUGHT WITHIN THE ECONOMIC ZONE OR ZONE OF JURISDICTION, WILL BE DISTRIBUTED AMONG COASTAL STATES IN ACCORDANCE WITH THE CONCENTRATION OF THE RESOURCE IN THEIR RESPECTIVE ZONES.

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C) THE REMAINDER WILL BE DISTRIBUTED AMONG ALL STATES PARTICIPATING IN THE FISHERY IN PROPORTION TO THEIR RESPECTIVE HARVESTS.

33. ENFORCEMENT AT SEA WITHIN THE ECONOMIC ZONE OR ZONE OF JURISDICTION WILL BE UNDERTAKEN BY THE COASTAL STATE. THE VERIFICATION AND COMPUTATION OF UNLOADINGS SHALL BE THE RESPONSIBILITY OF THE ORGANIZATION WITHIN THE ENTIRE AREA OF APPLICATION OF THE TREATY, AS SET FORTH IN PARAGRAPH 9. THE CONFERENCE OR ASSEMBLY SHALL ESTABLISH A UNIFORM REGIME OF MONETARY SANCTIONS FOR THE DIFFERENT VIOLATIONS OF RULES ADOPTED BY THE ORGANIZATION PURSUANT TO THE TREATY.

34. FINALLY, A CLAUSE WOULD BE INCLUDED COVERING THE PROVISIONAL ENTRY INTO FORCE OF THE TREATY, ACCORDING TO WHICH EVERY STATE, UPON SIGNATURE, MAY NOTIFY THE DEPOSITARY GOVERNMENT THAT IT IS WILLING TO APPLY THE TREATY PROVISIONALLY AND THAT IT WILL PROCEED TO ITS RATIFICATION IN ACCORDANCE WITH ITS CONSTITUTIONAL PROCEDURES AS SOON AS POSSIBLE. IN THIS MANNER, THE ORGANIZATION ITSELF, AS WELL AS ITS ORGANS, COULD BE ESTABLISHED AND BEGIN TO FUNCTION AS SOON AS POSSIBLE WITHOUT AWAITING THE REQUISITE NUMBER OF RATIFICATIONS.

35. THERE WILL ALSO BE A CLAUSE COVERING DEFINITIVE ENTRY INTO FORCE WHICH COULD PROVIDE FOR THE TREATY ENTERING INTO FORCE DEFINITELY UPON RATIFICATION OR ACCESS-MAJORITY PLUS ONE OF THE PARTICIPANTS

IN THE CONFERENCE WHICH APPROVES THE TREATY.

36. ADDITIONAL PROVISIONS AND TRANSITIONAL ARRANGEMENTS:

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A) THERE WOULD BE A TRANSFER OF ALL IATTC ASSETS  
TO THE NEW ORGANIZATION.

B) THE HEADQUARTERS AND PERSONNEL OF IATTC WOULD  
REMAIN.

C) THE CONFERENCE ESTABLISHING AND ADOPTING THE  
NEW TREATY WOULD, BY RESOLUTION, ESTABLISH A  
TRANSITIONAL REGIME TO APPLY UNTIL DEFINITIVE ENTRY  
INTO FORCE.

D) THE CONFERENCE WOULD ALSO ADOPT MEASURES TO  
RESOLVE, AS SOON AS POSSIBLE, THE TUNA-PORPOISE  
PROBLEM, TO ABOLISH THE "LAST TRIP" PROVISION AND PRACTICE  
AND TO RESOLVE THE PROBLEM OF INCIDENTAL OVER-FISHING  
OF YELLOWFIN TUNA. LUCEY UNQUOTE VANCE

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 22-Sep-1999 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TUNA, TREATIES, NEGOTIATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 29-Oct-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
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**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Source:** ADS  
**Document Unique ID:** 00  
**Drafter:** OES/OFA/FA: BSHALLMAN: SMD  
**Enclosure:** n/a  
**Executive Order:** 11652 NA  
**Errors:** n/a  
**Expiration:**  
**Film Number:** D770398-0981  
**Format:** TEL  
**From:** STATE  
**Handling Restrictions:** n/a  
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**Office:** ORIGIN OES  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 8  
**Previous Channel Indicators:**  
**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 19-Jan-2005 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 755184  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** NEGOTIATION OF TUNA TREATY SAN JOSE, COSTA RICA- WORKING DOCUMENT WORKING DOCUMENT PRESENTED TO EMBASSY BY GOM FONS  
**TAGS:** EFIS, MX  
**To:** QUITO LIMA MULTIPLE  
**Type:** TE  
**vdkgvkey:** odbc://SAS/SAS.dbo.SAS\_Docs/ff9fc924-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009